

MEMORANDUM

Agenda Item No. 11(A) (8)

TO: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

DATE: February 18, 2015

FROM: R. A. Cuevas, Jr.
County Attorney

SUBJECT: Resolution urging the Florida
Legislature and the Florida
Department of Business and
Professional Regulation to
reduce regulation on and provide
more flexibility in licensing
mobile barbeques and other
mobile food vendors

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Dennis C. Moss.



R. A. Cuevas, Jr.
County Attorney

RAC/smm



MEMORANDUM

(Revised)

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and Members, Board of County Commissioners

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Please note any items checked.

- ☐ "3-Day Rule" for committees applicable if raised
- ☐ 6 weeks required between first reading and public hearing
- ☐ 4 weeks notification to municipal officials required prior to public hearing
- ☐ Decreases revenues or increases expenditures without balancing budget
- ☐ Budget required
- ☐ Statement of fiscal impact required
- ☐ Ordinance creating a new board requires detailed County Mayor's report for public hearing
- ☒ No committee review
- ☐ Applicable legislation requires more than a majority vote (i.e., 2/3's ____, 3/5's ____, unanimous ____) to approve
- ☐ Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor

Veto _____

Override _____

Agenda Item No. 11(A) (8)

2-18-15

RESOLUTION NO. _____

RESOLUTION URGING THE FLORIDA LEGISLATURE AND
THE FLORIDA DEPARTMENT OF BUSINESS AND
PROFESSIONAL REGULATION TO REDUCE REGULATION
ON AND PROVIDE MORE FLEXIBILITY IN LICENSING
MOBILE BARBEQUES AND OTHER MOBILE FOOD
VENDORS

WHEREAS, Section 509.032(d), Florida Statutes, provides that the Florida Department of Business and Professional Regulation is responsible for providing statewide standards and requirements for the storing, preparing, processing, serving and displaying of food; and

WHEREAS, the Department of Business and Professional Regulation issues licenses to food service providers; and

WHEREAS, the Department of Business and Professional Regulation has promulgated rules and regulations that apply to food trucks, mobile barbeques and other mobile food vendors; and

WHEREAS, these rules and regulations require that mobile food vendors have facilities such as handwash sinks, three-compartment sinks, potable water holding tanks, wastewater holding tanks, adequate cold and hot storage, and an opening for serving food that is no larger than necessary; and

WHEREAS, numerous jurisdictions outside of Florida have less restrictive regulations on mobile barbeques and other mobile food vendors, and allow barbeques to, for example, (1) cook and serve food with umbrellas for coverage instead of requiring the cooking and serving area to be almost fully enclosed, and (2) use bleach solution spray and moist towelettes with alcohol instead of requiring that the actual mobile unit have a hand sink; and

WHEREAS, the way that these jurisdictions outside of Florida regulate mobile food vendors has allowed a greater variety of mobile food vendors to become licensed, thus encouraging entrepreneurship, small business and a more vibrant mobile food industry, while still maintaining and enforcing sanitary standards; and

WHEREAS, if the Florida Legislature and the Florida Department of Business and Professional Regulation were to reduce its regulations on mobile food vendors, such as barbeques, so as to mirror how mobile food vendors are regulated in jurisdictions outside of Florida, such a reduction in regulation would encourage small businesses and potentially increase the number of small entrepreneurs in Florida; and

WHEREAS, in the alternative, the Florida Legislature and the Florida Department of Business and Professional Regulation could reduce its regulations for mobile food vendors, such as barbeques, so as to mirror the way that Florida currently regulates frankfurters or hot dog sellers, or allow barbeque vendors to meet the current Florida regulations by using the facilities of an onsite business; and

WHEREAS, pursuant to Section 61C-4.0161(3), Florida Administrative Code, mobile food dispensing vehicles that only serve frankfurters are not subject to all of the same requirements that apply to other mobile food dispensing vehicles; and

WHEREAS, the Department of Business and Professional Regulation has issued licenses to mobile barbeques where such barbeques are operated in conjunction with a licensed, self-sufficient mobile food dispensing vehicle so as to meet the applicable requirements; and

WHEREAS, these state licenses, while allowing mobile barbeques to be used for cooking, require all seasoning, portioning, slicing and serving to be done from a licensed, self-sufficient mobile food dispensing vehicle; and

WHEREAS, more barbeque businesses could obtain the required state licenses if the Florida requirements were made more flexible specifically for mobile barbeques, similar to the requirements for frankfurter sellers, or if Florida were to allow barbeques to use the facilities of an onsite business to meet the applicable requirements; and

WHEREAS, such a change in Florida requirements could allow residents of Miami-Dade County to operate a mobile barbeque on the same site as an established brick-and-mortar business, where they could use the facilities of the onsite business to meet the applicable Florida requirements relating to storing, preparing, processing, and serving food; and

WHEREAS, such reductions in regulations for mobile food vendors may encourage entrepreneurship and economic growth by allowing businesses such as mobile barbeques to be established and licensed more easily; and

WHEREAS, more flexible regulations on mobile food vendors, such as barbeques, would benefit public health, by creating another avenue for existing mobile barbeques to become licensed by the State; and

WHEREAS, such a reduction in regulation could be achieved by the Florida Legislature enacting legislation to reduce the regulations that would be applicable to mobile barbeques and create more flexibility; and

WHEREAS, such a reduction in regulation also could be achieved by the Department of Business and Professional Regulation promulgating amended rules and regulations that would reduce regulations and provide more flexibility in how mobile barbeques may be licensed,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board:

Section 1. Urges the Florida Legislature and the Florida Department of Business and Professional Regulation to reduce regulations on mobile barbeques and other mobile food

vendors, and provide for more flexibility in how mobile barbeques and other mobile food vendors may be licensed, including but not limited to:

1. Reducing the requirements and regulations on mobile barbeques and other mobile food vendors so as to be more like jurisdictions outside of Florida that have regulations better suited to barbeques; or
2. Reducing some of the current requirements for licensure for mobile barbeques, similar to how frankfurter sellers are regulated, and allowing mobile barbeques to meet the applicable requirements if they share facilities with an established business on site.

Section 2. Directs the Clerk of the Board to transmit certified copies of this resolution to the Governor, the Senate President, the House Speaker, the Chair and Members of the Miami-Dade State Legislative Delegation, and the Secretary of the Florida Department of Business and Professional Regulation.

Section 3. Directs the County's state lobbyists to advocate for the passage of legislation and promulgation of rules accomplishing the goals set forth herein, and authorizes and directs the Office of Intergovernmental Affairs to amend the 2015 state legislative package to include this item.

The Prime Sponsor of the foregoing resolution is Commissioner Dennis C. Moss. It was offered by Commissioner _____, who moved its adoption. The motion was seconded by Commissioner _____ and upon being put to a vote, the vote was as follows:

Jean Monestime, Chairman

Esteban L. Bovo, Jr., Vice Chairman

Bruno A. Barreiro

Jose "Pepe" Diaz

Sally A. Heyman

Dennis C. Moss

Sen. Javier D. Souto

Juan C. Zapata

Daniella Levine Cava

Audrey M. Edmonson

Barbara J. Jordan

Rebeca Sosa

Xavier L. Suarez

The Chairperson thereupon declared the resolution duly passed and adopted this 18th day of February, 2015. This resolution shall become effective upon the earlier of (1) 10 days after the date of its adoption unless vetoed by the County Mayor, and if vetoed, shall become effective only upon an override by this Board, or (2) approval by the County Mayor of this Resolution and the filing of this approval with the Clerk of the Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: _____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.



Abbie Schwaderer Raurell